

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby adopts new Chapter 88, “Notification of Law Enforcement Agency by Hospital Prior to Discharge of a Person with Serious Mental Impairment,” Iowa Administrative Code.

2010 Iowa Acts, Senate File 2352, relating to the emergency hospitalization of a person with a serious mental impairment, was enacted by the Iowa General Assembly during its regular session this year. The bill requires the Department of Public Safety to prescribe the use of a form by peace officers to request notification from a hospital prior to the discharge of a person who has been detained because of a serious mental impairment and brought to the hospital by that officer or another officer, if an arrest warrant has been issued or charges are pending for the person. The rule adopted herein provides for the use of a specified form to make such requests. Although the form is published by and being prescribed by the Department of Public Safety, input was sought from major stakeholders in the process, particularly local law enforcement agencies and hospitals.

Pursuant to Iowa Code section 17A.4(3), the Department of Public Safety finds that notice and public participation are unnecessary because the statute requires hospitals to use a form prescribed by the Department for the purpose described herein. The statute became effective on July 1, 2010.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department of Public Safety further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2010. Clarification of the responsibilities of law enforcement personnel and hospitals regarding notification of a law enforcement agency by a hospital when a hospital intends to discharge a person who has a serious mental impairment and who has been brought to the hospital by the law enforcement agency confers a significant benefit on the public by reducing the chances that such a person will be discharged without the requested notification to law enforcement.

This amendment is also proposed in a Notice of Intended Action and is published herein as **ARC 8941B**. That notice provides for a public hearing and other opportunities for public comments.

This amendment is intended to implement 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352.

This amendment became effective July 1, 2010.

The following amendment is adopted.

Adopt the following new 661—Chapter 88:

CHAPTER 88

**NOTIFICATION OF LAW ENFORCEMENT AGENCY BY HOSPITAL PRIOR TO DISCHARGE
OF A PERSON WITH SERIOUS MENTAL IMPAIRMENT**

661—88.1(229) Notification request.

88.1(1) Scope. Pursuant to 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352, a hospital or facility is required to notify a law enforcement agency prior to the discharge of a person who was detained and delivered to the hospital by the law enforcement agency because of a serious mental impairment, provided that the law enforcement agency has submitted to the hospital a request for such notification using the form specified in subrule 88.1(2) and that an arrest warrant has been issued for the person or criminal charges are pending against the person.

88.1(2) Form. A law enforcement agency requesting notification prior to the discharge from a hospital of a person who was delivered by a law enforcement agency to the hospital because of a serious

mental impairment shall submit Form DPS-229, published by the department of public safety, to the hospital with all portions of the form completed as designated in the instructions.

This rule is intended to implement 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352.

[Filed Emergency 6/28/10, effective 7/1/10]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.